

July 19, 2001

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION

SUBJECT: Department of Development and Environmental Services File No. **L00TY405**

I 405/NE 160th STREET INTERCHANGE
Rezone Application

Location: North of Northeast 160th Street and west of Juanita-Woodinville Road
(just east of I-405)

Applicant: **Matt Aatai**
Atcon Construction
13120 Northeast 70th Place, Ste. 1
Kirkland, WA 98033
Telephone: (425) 828-7777
Facsimile: (425) 827-3276

King County: Department of Development and Environmental Services
Current Planning, *represented by*
Karen Scharer
900 Oaksdale Avenue SW
Renton, WA 98055-1219
Telephone: (206) 296-7144
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SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions (modified)
Examiner's Recommendation	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted:	November 15, 2000
Complete application:	January 22, 2001

EXAMINER PROCEEDINGS:

Hearing Opened: July 12, 2001
Hearing Closed: July 12, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Historic preservation
- Change in circumstances

SUMMARY:

Recommends zoning reclassification of 1.25 acres from R-24 (residential, 24 dwelling units per acre) to NB (neighborhood business). In both classifications a SO (special overlay district) would apply. That overlay concerns significant tree retention.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **Proposal.** Matt Aatai of Atcon Construction Company, Inc. (“Applicant”) requests zoning reclassification of the northwest corner of the Northeast 160th Street and Juanita-Woodinville Road intersection, just east of Interstate 405, from R-24-SO (residential, 24 dwelling units per acre with a special overlay district) to NB (neighborhood business). The subject 1.25 acre parcel is identified by attachment nos. 1 and 2 accompanying the preliminary report dated July 12, 2001, (exhibit no. 1) prepared by the Department of Development and Environmental Services (“DDES” or “Department”). A copy of that report will accompany those copies of this report which are filed with members of the Metropolitan King County Council for their review in consideration of proposed zoning reclassification ordinance no. 2001-0318.
2. **State Environmental Policy Act.** On May 14, 2001, the Department issued its threshold determination of environmental significance regarding this reclassification request. The Department found that, based upon its review of the environmental checklist and other relevant environmental documents, the reclassification (a “non-project proposal”) would not cause probable significant adverse impacts upon the environment. *This SEPA determination does not cover future development applications. SEPA review will be required when there is a proposal for development of the property.* No person, agency, tribe or other entity filed comment or appealed the Department’s threshold determination.
3. **Department Recommendation.** The Department recommends approving reclassification of the subject property from R-24-SO to NB-P-SO (in lieu of requested reclassification to NB), subject to certain conditions stated in section L, page 9 of the Department’s report (exhibit no. 1). That recommendation is amended by the Department’s “revised recommended conditions” (exhibit no. 2). The amended conditions are these:

- a. The subject property is comprised of two parcels. The Department's initial recommendation required the property owners to sign and record an access easement which assures legal access to both properties. In its final recommendation, the Department suggests that, as an alternative, the applicant may simply combine the two parcels into one parcel.
 - b. The King County Office of Historic Preservation finds the existing single family residence on the subject property to be of historical interest. For that reason, the Historic Preservation Office seeks a record documenting the existing development of the property before it is demolished. Exhibit no. 11, July 5, 2001 letter from Charlie Sundberg. In the Department's initial recommendation (as stated in its "revised recommended conditions", exhibit no. 2), the Department suggested that the applicant provide a letter from the Historic Preservation Office verifying compliance "at the time of application" for any development permit or demolition. In order to allow the applicant greater scheduling flexibility, the Department now agrees that this letter may be submitted to DDES "prior to issuance" of any permit for development or demolition.
4. **Applicant response.** The applicant accepts and agrees to the conditions contained in the recommendations stated on page 2 of exhibit no. 2 ("revised recommended conditions") amended as described in finding no. 3, preceding.
5. **Public participation.** No person appeared to express views regarding the requested reclassification.
6. **Changes in circumstance.** The key finding an Examiner must make when recommending reclassification of a property concerns "changed circumstances". More specifically, the applicant bears the responsibility to show the Examiner that circumstances affecting the subject property and surrounding properties have changed in a manner not anticipated at the time of the last area zoning.
 - a. There has been a significant increase in housing in the Northshore area with new construction in the last ten years exceeding the year 2010 target goals, according to the King County Annual Growth Report.
 - b. Many street improvements have been completed in the area, including signalization of 119th Avenue Northeast to the east, signalization of the first intersection west of I-405; and, street widening and urban frontage improvements.
 - c. Development in the immediate area continues to occur at a pace more rapid than anticipated at the time of the 1995 area zoning. Most of the property that was zoned for multiple family dwelling development has been built out. All property zoned neighborhood business are built upon and are being used for that purpose. No vacant parcels are currently available for new neighborhood business development.

KCC 20.24.190.D also requires that the subject property be affected in a manner which distinguishes it from other properties. In this case, the subject property is one of the few remaining parcels that are undeveloped in the business center. It is the only parcel at the intersection that is undeveloped. Further, the property is small, 1.25 acres, and is surrounded by streets and freeway on three sides.

7. Except as indicated above, the Department reports (exhibit nos. 1 and 2) are accurate and are adopted here by this reference. As noted above, copies of the Department's reports will be attached to those copies of this report which are forwarded to the Metropolitan King County Council. Corrections include the following:
 - a. The applicant's telephone number is (425) 828-7777, not the number indicated on page 1 of exhibit no 1.
 - b. The policy cited on page 5 of exhibit no. 1 as "U-xxx" should read "U-117".
 - c. On page 7 of exhibit no. 1, references made to "20 target goals" should read "2010 target goals".
 - d. Other corrections to exhibit no. 1 are stated in exhibit no 2.
 - e. Section I of exhibit no. 2, on page 1 of that revised report, refers to DDES file no. L00RZ001. That should read "L99RZ001".
 - f. Paragraph no. 2 of recommended P suffix conditions on page 2 of exhibit no. 2 refers to a June 5, 2001 memo from Charlie Sunberg (sic). That should read "July 5, 2001". Note, also that his name is Sundberg.

CONCLUSIONS:

1. Unanticipated changes have occurred since the last area zoning in 1995 which affect the subject property in a manner different than surrounding properties. See finding no. 5, above. Therefore, the requested reclassification is consistent with KCC 20.24.190.D.
2. The public necessity, convenience and general welfare will be served by the proposed reclassification.
3. The conditions of approval recommended below are necessary to assure the property is properly served and are required to make the reclassified property reasonably compatible with the environment. The conditions of approval indicated below are necessary to carry out applicable state laws and regulations as well as the laws, policies and objectives of King County.

RECOMMENDATION:

GRANT RECLASSIFICATION of the subject property subject to the following conditions:

1. **Pre-effective condition.** The property owners shall sign and record an access easement meeting the satisfaction of KC DDES, which provides legal access across both properties for the purpose of a single joint access driveway (ingress and egress) to Juanita Woodinville Way. Alternatively, the applicant may instead combine the two parcels into one parcel through the means of a Lot Line Adjustment.

2. Post-effective. P-Suffix Conditions:

- a. At the time of development application of either parcel, the applicant shall demonstrate that legal access for the purpose of a single joint access driveway (ingress and egress) to Juanita-Woodinville Way is provided in the development plan meeting the satisfaction the of KCDOT which is physically located as far north as possible. This condition does not preclude the location of an emergency only access driveway to the property, if required by King County.
- b. The applicant shall obtain a letter from the King County Office of Historic Preservation verifying that the recommendations contained in the July 5, 2001 memo from Charlie Sundberg, Preservation Planner have been satisfied. This letter shall be submitted to DDES prior to issuance of any permit for development or demolition.

3. Special overlays to be retained:

- SO – KCC 16.82.150.D.

RECOMMENDED this 19th day of July, 2001

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 19th day of July, 2001, to the following parties and interested persons:

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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before August 2, 2001.*** If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before August 9, 2001.*** Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JULY 12, 2001 PUBLIC HEARING ON KING COUNTY DEPARTMENT OF TRANSPORTATION ROAD SERVICES DIVISION FILE NO.L00TY405:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Karen Scharer. Participating in the hearing and representing the Applicant was Matt Aatai. Merrit Nielson also participated in this hearing.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services Preliminary Report
- Exhibit No. 2 DDES Corrections and Revisions to the Preliminary Report
- Exhibit No. 3 DDES File No. L00TY405
- Exhibit No. 4 Application received November 15, 2000
- Exhibit No. 5 Environmental Checklist dated 11/11/2000
- Exhibit No. 6 Determination of Non-Significance (DNS) issued by DDES May 14, 2001
- Exhibit No. 7 Affidavit of Posting indicating January 17, 2001 as date of posting and January 22, 2001 as the date the affidavit was received by DDES
- Exhibit No. 8 Notice Of Applications, mailed 1/22/01
- Exhibit No. 9 Assessor Maps – SEC NW 16-25-05 & NE 17-25-05
- Exhibit No. 10 Revised Plan of Existing Site Feature, received December 20, 2000
- Exhibit No. 11 July 5, 2001 Letter from Charlie Sundberg, KC Historic Preservation
- Exhibit No. 12 King County Comprehensive Land Use Map (GIS)
- Exhibit No. 13 Fax memo dated 7-12-01 from Merritt Nielson (entered by applicant)
- Exhibit No. 14 Excerpt from 2000 Annual Growth Report

SLS:slb
L00TY405 RPT